

1 NATHAN A. SEARLES, N 234315  
RESURGENCE FINANCIAL, I.L.C.  
2 LEGAL DEPARTMENT  
360 N. Sepulveda Boulevard, Suite 2077  
3 El Segundo, CA 90245  
(T): 877/694-7500 (F): 310/607-9204

**FILED**  
RECORDED IN THE COUNTY OF LOS ANGELES

John A. Clark Executive Deputy Clerk  
By \_\_\_\_\_ Deputy

4 Refer to File Number:  
5 Attorney for Plaintiff

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

7 **COUNTY OF LOS ANGELES,**

**STRICT**

8 RESURGENCE FINANCIAL, LLC,

CASE NO.: 09

9 Plaintiff,

NOTICE OF MOTION AND MOTION FOR  
ORDER COMPELLING RESPONSES TO  
FORM INTERROGATORIES AND  
REQUEST FOR PRODUCTION OF  
DOCUMENTS; AND FOR AN ORDER  
THAT THE GENUINENESS OF  
DOCUMENTS AND TRUTH OF MATTERS  
SPECIFIED IN PLAINTIFF'S REQUEST  
FOR ADMISSIONS BE DEEMED  
ADMITTED; REQUEST FOR SANCTIONS;  
DECLARATION OF NATHAN A.  
SEARLES; POINTS AND AUTHORITIES  
IN SUPPORT THEREOF; [PROPOSED]  
ORDER

10 v.

11 STEPHEN nd DOES 1 through  
12 15 inclusive

13 Defendants.

14 DATE:  
15 TIME: 8:30 @p.m.  
16 DEPT:

17  
18  
19  
20  
21 PLEASE TAKE NOTICE that on \_\_\_\_\_ at 8:30 @p.m., or as

22 soon thereafter as the matter can be heard, in Department "\_\_\_\_\_" of the above-entitled court, located at

23 \_\_\_\_\_, RESURGENCE FINANCIAL, I.L.C., (hereinafter

24 "PLAINTIFF"), will:

25 (1) Move the Court for an order compelling Defendant, STEPHEN (hereinafter

26 "DEFENDANT") to serve verified responses, without objection, to Plaintiff's First Set of Form

27 Interrogatories which were propounded to Defendant on \_\_\_\_\_ 2009, in that Defendant has failed to

28 provide verified responses thereto pursuant to Section 2030.010 of the Code of Civil Procedure;

NOTICE OF MOTION AND MOTION FOR ORDER COMPELLING RESPONSES TO FORM INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS, AND FOR AN ORDER THAT THE GENUINENESS OF DOCUMENTS AND TRUTH OF MATTERS SPECIFIED IN PLAINTIFF'S REQUEST FOR ADMISSIONS BE DEEMED ADMITTED, REQUEST FOR SANCTIONS, DECLARATION OF NATHAN A. SEARLES, POINTS AND AUTHORITIES IN SUPPORT THEREOF; [PROPOSED] ORDER

1 (2) Move the Court for an order compelling Defendant to produce, without objection, the  
2 documents requested in Plaintiff's First Set of Requests for Production of Documents, which were  
3 propounded to Defendants on June 25, 2009, in that Defendant has failed to provide verified responses or  
4 produce documents in response thereto pursuant to Section 2030.010 of the Code of Civil Procedure;

5 (3) Move the Court for an order that the genuineness of the documents and truth of matters  
6 specified in the Plaintiff's First Set of Requests for Admissions, which were propounded to Defendant on  
7 June 25, 2009, be deemed admitted, in that Defendant has failed to provide verified responses thereto  
8 pursuant to Section 2033.010 of the Code of Civil Procedure;

9 (4) Further move the Court for an order that Defendant pay Plaintiff the sum of \$240.00 as  
10 reasonable costs and expenses, including attorney's fees, incurred in this proceeding pursuant to Section  
11 2023.030 of the Code of Civil Procedure.

12 This motion is made under Sections 2030.010, 2030.290, 2031.010, 2031.300, 2033.010, 2033.280,  
13 2023.030 and 128.5 of the Code of Civil Procedure, on the ground that the questions are relevant to the  
14 subject matter of this action and are not privileged matters.

15 This motion is made on the further grounds that discovery should be required and the refusal or  
16 failure to permit discovery was and is without substantial justification.

17 This motion is based on this notice, the pleadings, records, and files in this action, the attached  
18 Memorandum of Points and Authorities, the attached supporting Declaration of NATHAN A. SEARLES,  
19 and oral and documentary evidence to be presented at the hearing of the motion.

20 DATED: June 25, 2009

21 RESURGENCE FINANCIAL, LLC

22  
23 By: NATHAN A. SEARLES, SBN 234315  
24 Attorney for Plaintiff

1 NATHAN A. SEARLES, N 234315  
RESURGENCE FINANCIAL, LLC  
2 LEGAL DEPARTMENT  
360 N. Sepulveda Boulevard, Suite 2077  
3 El Segundo, CA 90245  
(T): 877/694-7500 (F): 310/607-9204

4 Refer to File Number  
5 Attorney for Plaintiff

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 COUNTY OF LOS ANGELES

DISTRICT

8  
9 RESURGENCE FINANCIAL, LLC.

CASE NO.: 09

10 Plaintiff,

DECLARATION OF NATHAN A. SEARLES

11 v.

12 STEPHEN W ROOS, and DOES 1 through  
15 inclusive

13 Defendants.

14 DATE:

TIME: 9:30 a.m./p.m.

15 DEPT:

16  
17 I, NATHAN A. SEARLES, declare as follows:

18 1. I am an attorney at law duly admitted to practice law before all courts in the State of  
19 California, and I am an attorney in the legal department of RESURGENCE FINANCIAL, LLC (hereinafter  
20 "PLAINTIFF"). In that capacity, I am personally familiar with the facts set forth in this declaration. If called  
21 as a witness, I could and would testify under oath to the following.

22 2. On May 20, 2009, a Complaint was filed in this Court against STEPHEN  
23 (hereinafter "Defendant"). Defendant has been served and appeared by way of filing an answer.

24 3. On June 25, 2009, this office caused to be served on Defendant, Plaintiff's First Set of Form  
25 Interrogatories (hereinafter "FORM INTERROGATORIES"), of which a true copy is attached hereto as  
26 Exhibit "1".

27 4. On June 25, 2009, this office caused to be served on Defendant, Plaintiff's First Set of  
28 Requests for Production of Documents (hereinafter "PRODUCTION REQUEST"), of which a true copy is

1 attached hereto as **Exhibit "1"**.

2 5. On 2009, this office caused to be served on Defendant, Plaintiff's First Set of  
3 Requests for Admission (hereinafter "REQUESTS FOR ADMISSION"), of which a true copy is attached  
4 hereto as **Exhibit "3"**.

5 5. On 2009, Plaintiff received Defendant's wholly unverified responses to FORM  
6 INTERROGATORIES, PRODUCTION REQUEST or REQUESTS FOR ADMISSION.

7 6. On 2009, verified responses were due to said discovery. On 2009, no  
8 verified responses to the FORM INTERROGATORIES, PRODUCTION REQUEST or REQUESTS FOR  
9 ADMISSION (hereinafter collectively referred to as "DISCOVERY REQUESTS"), had been received. As  
10 a result thereof, and consistent with the Legislative and Judicial spirit behind Section 2023.010 of the Code  
11 of Civil Procedure, I attempted to informally resolve the issues presented by sending a letter ("MEET AND  
12 CONFER LETTER") to Defendant advising of the failure to respond with verified responses to said  
13 Discovery Requests timely, that unverified responses are tantamount to having served no responses at all.  
14 that I expected verified response no later than 10 days after the mailing of the letter, and that if no response  
15 was forthcoming, a motion to compel would be brought. Included in the letter was an express declaration  
16 that the letter was to be construed as an informal attempt at resolving this matter. This letter was drafted  
17 and mailed to Defendant on July 31, 2009, and a true copy of same is attached hereto as **Exhibit "4"**.

18 7. To date, my office has not received verified response to said Discovery Requests.

19 8. Because we have not received any verified responses, I have been forced to spend one hour  
20 preparing this motion. A reasonable attorney rate is \$200.00 per hour for such motions and therefore request  
21 reasonable attorney's fees in the sum of \$200.00, plus the costs of filing this Motion in the sum of \$40.00,  
22 for a total of \$240.00.

23 9. Each and every interrogatory contained in Plaintiff's First Set of Form Interrogatories are  
24 relevant as they relate to the denials of Defendant to Plaintiff's Complaint, the Defendant's defenses, and the  
25 existence of liability on the part of Defendant.

26 10. Each and every document requested in Plaintiff's First Set of Requests for Production of  
27 Documents are relevant as they relate to the denials of Defendant to Plaintiff's Complaint, the Defendant's  
28 defenses, and the existence of liability on the part of the Defendant.

1 11. Each and every request for admission contained in Plaintiff's First Set of Requests for  
2 Admissions is relevant as they relate to the denials of Defendant to Plaintiff's Complaint, the Defendant's  
3 defenses, and the existence of liability on the part of the Defendant.

4 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true  
5 and correct.

6 Executed on 009 at El Segundo, California.

7 By: NATHAN A. SEARLES  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28